

QUID NOVI

*McGill University, Faculty of Law
Volume 27, no. 14, 31 January 2006*



- HEAD HUNTERS AT THE FACULTY -



"SO, DO YOU DO
LITIGATION
AS WELL?"

CB 2006

QUID NOVI

3661 Peel Street
Montréal, Québec
H2A 1X1
(514) 398-4430
quid.law@mcgill.ca
www.law.mcgill.ca/quid

Editor-in-Chief
Jason MacLean

Assistant Editors-in-Chief
Cassandra Brown
Andrea Gorys

Managing Editors
Jennifer Hansen

Layout Editors
Tara DiBenedetto
Simon Grant
Maegan Hough
Jessica Rubin
Lisa Schneiderman
Enda Wong

Associate Editors
Caroline Briand
Stephanie Dickson
Adèle D'Silva
Stephanie Jones
Julien Morissette
Sam Carsley
Oana Dolea
Tyler Harleton
Elizabeth LaBrie
Cedric Soule

Web Editor
Julian Awwad

Cover Artist
Caroline Briand

Staff Writer
Nicholas Dodd
Ali Glaser

Staff Cartoonist
Laurence Bich-Carrière

IN THIS ISSUE...

- 3...An Update of Goings-on at the Faculty
- 4...A Round-up of Random - and Mostly Real - Corporate Law News
- 6...Dear Lord Denning: Your Academic and Career Questions Answered
The Sunshine Article
- 8...The Square: Reflections on adventures Come and Gone
- 10...I Want to be a Player
- 11...Response to "Cuba Libre"
- 12...Professors Are People Too
- 13...Student Ancillary Fees, Accountability and Institutional Design
- 15...Dear Quid
La Foire Aux Pacotilles

The *Quid Novi* is published weekly by the students of the Faculty of Law at McGill University. Production is made possible through the direct support of students.

All contents copyright 2006 *Quid Novi*.

Les opinions exprimées sont propres aux auteurs et ne reflètent pas nécessairement celles de l'équipe du *Quid Novi*.

The content of this publication does not necessarily reflect the views of the McGill Law Students' Association or of McGill University.

Envoyez vos commentaires ou articles avant jeudi 5pm à l'adresse: quid.law@mcgill.ca

Toute contribution doit indiquer l'auteur et son origine et n'est publiée qu'à la discrétion du comité de rédaction, qui basera sa décision sur la politique de rédaction telle que décrite à l'adresse:
<http://www.law.mcgill.ca/quid/edpolicy.html>.

Contributions should preferably be submitted as a .doc attachment.

EDITORIAL

As promised, the Quid features this week various aspects of corporate law and corporate social responsibility.

Regarding the random and mostly real roundup of corporate law news, please bear in mind that the first item, regarding a leak from the new Conservative government, is purely fictional and part of the joint Law & Management simulation seminar (The Anatomy of a Deal). Still, it is hoped that people will begin to take some interest in this simulated acquisition of a (Canadian) public company and begin to engage in a broader discussion of corporate social responsibility.

To that latter end, I have brought to your attention two additional - and real - corporate law matters: the recent decision of the Supreme Court of Canada regarding the pay equity claim of its flight attendants, and Mr. Owen Pell's lecture to the Faculty last Friday on what he calls the "new diplomacy" and the formation of international norms of corporate responsibility.

I would also like to bring to your attention an interesting Op-ed published on Monday in The New York Times by University of Texas law professor Henry Hu. Professor Hu asks "Can Enron happen again?" and answers "yes." Does that mean corporate governance law does not do enough to deter fraud? Not necessarily, according to Professor Hu, who focuses instead on the opportunity costs of directors monitoring fraud. What is interesting about Professor Hu's approach is that it focuses only on shareholder value and largely ignores the concerns of stakeholders. Labour economists have, for instance, argued intriguingly that the Enron debacle is responsible for thousands of lost jobs and slow economic growth.

- J.M.

AN UPDATE OF GOINGS-ON AT THE FACULTY

by Vic Arora (Law II)

I can't believe how quickly these last few years have flown by. Just yesterday we were bracing for the apocalypse that Y2K was supposed to bring, and yet here we are, a month into 2006! Étant donné le calendrier social chargé de la Faculté et votre horaire encore plus chargé, il ne me surprendrait pas que vous n'ayez pas remarqué tout ce qui se passe à la Faculté. Heureusement, je n'ai rien de mieux à faire que de vous offrir un bref aperçu de quelques développements récents à la Faculté et de vous annoncer ce que vous offrira l'année 2006.

Better beer: The academic year began with the LSA seizing an opportunity to get better quality beer for the Faculty at more affordable prices. The result of these efforts is a contract with Montreal-based McAuslan as our exclusive supplier of cold, fresh beer. Mmmm...beer.

But where do we get this beer? The opportunity to enjoy beer and other drinks presents itself every Thursday. Coffeehouses sponsored by Paul Weiss, White & Case, BLG, the CBA, Lavery, de Billy, McMillan Binch Mendelsohn and Davies, Ward, Phillips & Vineberg allowed many a student to take one night off from kitchen duty a week.

Bogenda: Nous n'apprécions pas tous qu'une photo parfois

peu élogieuse de nous soit disponible à tous les étudiants. Malgré cela, il est maintenant plus facile de se faire connaissance grâce aux photos des étudiants de première année publiées dans le fameux bogenda. Le bottin est maintenant disponible sur le site web de l'AÉD. Le mot de passe pour y accéder se trouve sur le babillard de l'AÉD.

It's the next big thing: Exchange programs are extremely popular at the Faculty and the Asia Pacific Law Association of McGill (APLAM) has taken steps towards establishing an exchange program between McGill and some Chinese universities. The matter is currently being looked into by Assistant Dean Belanger and more information will be provided as soon as it is available.

"Des dollars qui font du chemin": Ensemble, le travail acharné des bénévoles et la générosité des étudiants et des professeurs de la Faculté a permis d'amasser plus de 400\$ pour Centraide.

Law games: McGill placed first in the knowledge test and dodgeball, and secured a second-place finish in soccer. I'd like to tell you more but like Vegas, what happens at Law Games stays at Law Games. Those of you who are curious should join the fun next year!

Une faculté énergique! Des

nouvelles prises de courant sont maintenant installées dans le local 202. Le sous-sol et le Moot Court devraient être en mesure d'accommoder vos besoins technologiques dès l'automne.

Étude décontractée: Des nouvelles places d'étude seront disponibles à l'atrium au cours des semaines prochaines. Parmi les améliorations, vous noterez l'arrivée d'ordinateurs et de tables pour vos portables.

French version of the website: A bilingual website is coming soon to a computer near you. Once functional, the translation committee will turn their attention to the LSA Constitution.

Internet sans-fil: La Faculté est maintenant en train de déterminer le meilleur moyen pour vous faciliter l'accès au réseau sans-fil. Nous espérons que tous les lieux d'étude seront couverts par le réseau dès l'automne.

Do you type faster than you write? If so, you'll be happy to know that the pilot project involving exams written on laptops went very smoothly. The project will be voluntary and only introduced in stages, but now you can look forward to carpal tunnel syndrome instead of just forearm cramps!

Passez donc au salon! Le projet de rénovation du salon progresse toujours: des résultats sont attendus d'ici l'automne prochain. Comme d'habitude, les informations relatives au projet sont disponibles sur le site web de l'AÉD.

Foundations: They are listening! The Foundations course is being revised to include elements of civil procedure and

judicial institutions. In addition, expect to see the course evaluation more heavily concentrated toward the beginning of the semester.

Show me the money! For those of you that are looking to secure funding from the Dean's Discretionary Fund, both time and money are running out! Clubs that are looking for funding should also apply to the LSA as soon as possible; applications are processed on a rolling basis.

Stay Tuned...

The
Quid's Summer
Jobs Issue

Is Coming
Next Week

A Roundup of Random - and Mostly Real - Corporate Law News

by Jason MacLean (Law III)

Leak Suggests Canada-US Aviation Liberalization in the Works

Stephen Harper, Conservative Party leader, free-enterprise economist, Kyoto climate change protocol hater, abiding supporter of the American-led invasion of Iraq, and - gulp, gasp - Prime Minister of Canada wants friendlier relations with the United States. And more open sky.

A leak from the new Conservative government suggests that legislative changes to the Competition Act, the Investment Canada Act, and the Canada Transportation Act are already in the works, changes that - inter alia - will make it easier for non-Canadian persons to own and operate commercial airlines in Canada.

According to an anonymous Conservative Party insider, "We may not be able to end same-sex marriage or cancel national health insurance (at least not right away), but aviation liberalization is something we can get done right now."

The party insider went on to observe that major legislative changes are unnecessary. Regarding the Investment Canada Act, the Minister of Justice has already considerable discretion under section 20 to approve investments in Canada made by non-Canadians. The Minister may, for example, consider factors such as (a) the level and nature of economic activity in Canada, (b) the degree of participation - or lack thereof - by Canadians in industry in question, (c) the effect of the investment on productivity, (d) the effect of the investment on competition in Canada, (e) the compatibility of the investment with national, economic, and cultural policy objectives, and (f) the contribution of the investment to Canada's ability to compete in global markets. For aviation liberalization to become a reality, however, these factors will have to be harmonized with the determination under section 56(1) and 62 of the Canada Transportation Act.

This leak follows on the heels of the airline trade liberalization deal negotiated between Canada and the United States in the fall of 2005. Though the deal stopped short of allowing American airlines to move passengers between Canadian destinations, the deal, according to the Quid Novi's source, may be revisited and amended before it takes effect in September, 2006. See *Canada (Human Rights Commission) v. Canadian Airlines International Ltd.*, [2006] SCC 1.

Major Victory for Air Canada Flight Attendants

Air Canada's flight attendants have won a significant procedural victory at the Supreme Court of Canada regarding their 15-year long struggle to achieve pay equity with other, male-dominated groups of airline

employees. The ruling is likely to become a landmark decision that will speed up the resolution of other pay equity cases in the airline industry (and among other federally regulated organizations).

According to a report published in the *Globe and Mail*, the Court ruled unanimously that flight attendants can indeed compare their pay with that of pilots and ground crews; Air Canada argued, ultimately unsuccessfully, that because each group's relation to the company is governed by a separate collective agreement, such comparisons were invalid. The case will now be sent back down to the Canadian Human Rights Commission for a factual determination on the question of whether discrimination on the basis of gender occurred.

Owen Pell Delivers Lecture to McGill Law Faculty on "The New Diplomacy"

White & Case LLP partner Owen Pell delivered an intriguing lecture at the McGill Faculty of Law last week regarding the "new diplomacy" of global governance and the formation of new international norms.

Mr. Pell's thesis is that we presently live in an era of "accountability" driven by the politics of recognition. For Mr. Pell, ours are exciting times to be a lawyer, for the new global playing field is that of international law.

Mr. Pell sees the new diplomacy as occurring at the intersection of the interaction and dialogue that took form and grew following the conclusion of the cold war between multinational corporations, nation states, and NGOs and IGOs (more about these in a moment). Acting on these players are various vectors of the rule of law, to wit, transparency, regulation, disclosure, and accountability.

On Mr. Pell's account, the institutional maturity of NGOs (achieved by acting like corporations, and remaining free of regulation) has given them the ability to get "buy-in" from MNCs on issues regarding labour and the environment. For Mr. Pell, the state is passé (though state regulation of public corporations is a significant legal vector in his view). The dynamics of international norm-making lie in the interaction between NGOs and their ability to pressure MNCs to do the right thing. This is, according to Mr. Pell, a microeconomics of global governance. The emergence of new international law customs is based on the case-by-case build-up of positive results.

Mr. Pell cited in his talk four examples of models for this form of norm construction: (1) the elimination of child labour in cocoa production in western Africa, (2) the Kimberly Diamond Accord, (3) the World Bank's leadership vis-à-vis the Council of Damns, and (4) British Petroleum's voluntary compliance and self-monitoring Kofi Annan's UN environmental

and human rights policies (particularly important given BP's presence in the developing world).

Mr. Pell was forthright about the role of NGOs bullying corporations to do the right thing. Corporations will not act altruistically, Pell admits - they either have to be coerced or shown that the proposed reforms will be "good for business." It is here that Mr. Pell's otherwise intriguing account begins to break down.

Consider the question posed to Mr. Pell by audience member Hugh Sandler, who wondered if increasing state regulation of public corporations will encourage such companies to go private. Mr. Pell does not really think that is a significant risk, but recent trends suggest otherwise. After all, as Mr. Pell pointed out, MNCs exploit arbitrage opportunities - essentially, discrepancies that have a dollar sign attached. At the moment, private equity firms are aggressively arbitraging the public markets by appropriating profits that would otherwise go to shareholders by buying up public firms and then taking them private. Reports coming from the meetings and lectures presently taking place in Davos, Switzerland suggest that the leaders of public companies are growing weary of Sarbanes-Oxley and pesky shareholders (whom they see about once a year). But the concern runs deeper still: increasing regulation, many fear, is adversely affecting board decision-making and the recruitment of talented directors - i.e., the very fundamentals of public businesses.

A yet more fundamental question was then raised in regard to Mr. Pell's model, which imagines MNCs, states, and NGO/IGOs as the central players in the arena of global governance. Given the gravity of the both increasing economic inequality and environmental degradation on a global scale, does it make sense to place responsibility for our collective future in the hands of the most under-funded, under-staffed institutions involved (namely NGOs)? After all, let's be realistic - human rights NGOs and IGOs such as the Fund and the Bank are not in any meaningful way on the same page, let alone on the same team. To be sure, NGOs are not powerless, and yes, they have accomplished many impressive and progressive measures. But they are not equipped to take on MNCs alone.

That leaves the poor old beleaguered nation state, about whom few have anything positive to say. Unfortunately, Mr. Pell, like many of the corporations he represents, wants to have this both ways. He asserts, on the one hand, that the time of states is mostly over - no one turns to the state anymore to get things done; that's what companies are for. On the other hand, Mr. Pell argues that one of the principal

EXPERIENCE AN INCREDIBLE GROWTH SPURT

STIKEMAN ELLIOTT

STIKEMAN ELLIOTT LLP

accountability vectors acting upon corporations is that of state regulations (e.g., Sarbanes-Oxley). Which is it?

Ideology aside, it is instructive to note that far from being better than states at getting things done, the "new corporate outsourcing" according to a recent report in The New York Times describes the trend of Western corporations outsourcing pensions and health care to governments in order to lower labour costs to better compete with foreign competitors. Airlines, auto-parts manufacturers and other besieged industries are offloading their obligations to workers under the informal contract that obtained for much of the 20th century. The result is a government bailout of corporations not a little reminiscent of the savings-and-loan debacle of the 1980s.

There is another strain of corporate social responsibility thinking that wishes to have its cake and eat it too - the line of thinking that good economic and environmental ethics are good for business. The tacit assumption underlying this hopeful if misguided approach is that the bad behaviour of corporations over the last 150 years is the handiwork of a few bad corporate apples, while the system as a whole conduces to generally positive results. Anyone who thinks this a basically sensible view ought to read John C. Bogle's recently published *Battle for the Soul of Capitalism*. Mr. Bogle is the founder and CEO of Vanguard, one of the four largest mutual fund management groups in the US, and as such is the consummate Wall Street insider. For Mr. Bogle, corporate malfeasance is more than the work of a few bad apples: "I believe that the barrel itself - the very structure that holds all those apples - is bad."

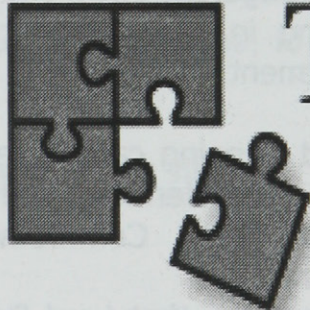
Mr. Bogle's solution, however, pales in comparison with his analysis. For Mr. Bogle, genuine shareholder democracy is the answer. This, of course, is anything but a novel proposal, and it ignores both the collective action problem regarding shareholders of widely-held companies, the inherent myopia of many institutional investors, and the reality that shareholders are no more ethical than managers and directors. As David Westbrook observes, the Enron scandal did not issue from a management-shareholder misalignment (the classic agency problem). Rather, management's and shareholders' interests were too closely aligned, obsessed as they were with quarterly gains.

Mr. Pell's overarching thesis about the new diplomacy, however, is instructive and likely correct: MNCs exploit arbitrage opportunities, which abounded during the cold war especially. New customs of international law, norms that will bring powerful corporations in line with our collective well being, must, if they are to succeed, close regulatory arbitrage opportunities and thus preempt races-to-the-bottom of corporate - and human - standards. Like it or not, the agency of the state and its principal, the public, are going to have to play the lead role in this process. That means increasing not only corporate social responsibility, but citizen and consumer responsibility as well. Everything is connected, and we are all in this together.

Quid Poll:

Should Canadian Airspace be liberalized and opened to American commercial carriers?

Torkin|Manes
Barristers & Solicitors

 The
Right
Fit

Torkin Manes has historically been rated by our associates in *Canadian Lawyer* as one of the top Toronto firms in which to practise. If you are looking to launch a challenging and rewarding career, Torkin Manes may just be the right fit.

Director of Student Recruitment:
Tami Moscoe
416 360 4734

Torkin Manes Cohen Arbus LLP • Barristers & Solicitors
151 Yonge Street, Suite 1500, Toronto, ON M5C 2W7
Tel: 416 863 1188 • Fax: (416) 863-0305 • torkinmanes.com

DEAR LORD DENNING:

YOUR ACADEMIC AND CAREER QUESTIONS ANSWERED

by Natalie Haras (Law I)

Welcome to a new column brought to you by your friendly first-year career/mentorship committee. Lord Denning has come out of retirement and is eager to help you get the information you need to make good decisions. Read it every week for the answers to your most pressing law-related academic and career questions.

Write in and get your response straight from Lord Denning, and any experts he might consult, to give you the most comprehensive advice about your concerns. Students, professors, and other members of the law school community are invited to participate.

Every week, additional questions will be listed at the end of the column. Feel free to write in and help Lord Denning along if you feel inclined to share your advice.

Our first questions for discussion are:

Dear Lord Denning,

I have always wanted to open my own community-based legal practice. What steps should a young lawyer take to do this? I am willing to relocate but there is nothing I want more than to hang up my own shingle.

Sincerely,
Anxious to fill Atticus Finch's shoes

Dear Lord Denning,

I need help. I almost failed my December exams in first-year contracts. I thought I would do well. I really like this course but I am lost. Where can I get extra help? Are there any study strategies that might help me do better in April? I'm afraid that the camel's nose is in the proverbial tent.

Yours,
A mere puff

Dear Lord Denning

I love constitutional law. It's the only course I care about. I LOVE it! Reading about it, writing about it, studying it. But I'm worried that there aren't many career options in this field, especially straight out of law school. Do you have any suggestions?

Best regards,
Living in a water-tight compartment

Lord Denning can be reached at: deardenning@yahoo.ca (It's his Commonwealth address)

Remember that Lord Denning and his intrepid team, Rhonda Grintuch, Natalie Haras, Stephanie Jones and Olivier Plessis, are on your side.



THE SUNSHINE ARTICLE

By Alison Glaser (Law I)

So, I don't know if I'm the only one who had this experience at Civil Law career day, but I got told a lot that I should go have fun this summer. Now I have to say that this annoyed me when people said this earlier in the year. What do you mean don't work in a law job? What else am I going to do? I'm too qualified to work at McDonald's or something and under-qualified to work in something super interesting (like as Prime Minister, say). So what are we poor first years supposed to do?

Well, I think we have many choices, actually. For those people who can afford to not work this summer, you can travel or take summer courses. For those who need to work, such as a certain shiny person, don't despair. Here are some suggestions:

Summer camp: working at camp can be very fun, and while it is tiring, it is no where near as tiring as a 24 hour take home exam. Plus you get to do fun things with kids all day. There are many specialized camps around the city, like sports camps, music camps, art camps, drama camps, horse-back riding camps, etc. There is also the sleep-away camp possibility, although those tend to pay less since they include room and board. Some of the day camps pay remarkably well (like McGill Summer Sports Camp, which boasts as former counsellors myself and el presidente Andres). The other good thing about camp is it only starts at the end of June, so you can travel or work a pro bono job for a few weeks beforehand. Or just chillax, since you'll

deserve some time off by the time May rolls around.

Shitty jobs in cool places: my sister spent two summers working for Beaver Tails at LaRonde. The job sucked but she got to go to LaRonde and ride for free as much as she wanted. So if there is something that you really like, go for it and get it for free. This category also includes working for Ben and Jerry's, coffee shops, bakeries and anywhere that sells chocolates. This category can also be extended to doing things like working in a hostel or bar in a foreign country, which is a good way to combine the travel and work thing.

Research jobs: now, I know this sounds incredibly boring, but think about it - regular hours, evenings and weekends free, you usually have a phone and internet you can exploit, and if you show up hung over, not so much of a big deal (as opposed to working in a summer camp I mean).

Work the festivals: I've had friends who do a different job at each of Montreal's amazing festivals. Honestly, what better way is there to enjoy the greatest city at its best?

Prostitution: right, well, this is illegal, so I actually do not mean this. Basically I've run out of ideas. I want to do something fun this summer and make money!!!! Any suggestions would be greatly appreciated.

The best way to launch a career.



Kick start.

Acclaimed by international legal guides for its leading role in some of the most important business transactions and legal decisions around the world, McCarthy Tétrault continuously attracts the brightest talent to its ranks.

The right fit of unique perspectives and smart thinking brings as diverse a group of people together as there are practice groups. The result – an enterprising environment that generates creative solutions and superior client service.

For the best of the next generation of lawyers, McCarthy Tétrault is the obvious place to be. To learn more about our articling and summer student programs, log on to: mccarthy.ca/therightfit.

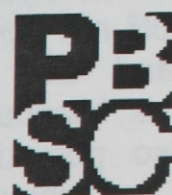
Then, prepare to kick-start a career with Canada's premier law firm.

All McGill law students are
invited to contact:
Vanessa Dumoulin
(514) 397-4293
vdumoulin@mccarthy.ca

McCarthy Tétrault

mccarthy.ca/therightfit

McCarthy Tétrault Law Firm Partner



Pro Bono
Students
Canada

VANCOUVER CALGARY LONDON TORONTO OTTAWA MONTRÉAL QUÉBEC NEW YORK LONDON, UK

THE SQUARE: REFLECTIONS ON ADVENTURES COME AND GONE

by Nicholas Dodd (Law I)

Well it seems that the good province of Quebec is doing all it can these days to make a prairie boy feel right at home. First off, the dreaded winter of bone-chilling cold that I was assured would bring me to my weak, Chinook-loving knees, has not yet come to pass (if you don't know what a Chinook is don't hesitate to ask me - it's an interesting piece of Canadian trivia). Instead Mother Nature has been in good spirits one day, in a windy temperament the next, and in downright icy moods by the third. This meteorological zaniness bears striking resemblance to winters in Calgary, where the motto is - and for all intents and purposes this is a statement of fact - "If you don't like the weather, just wait 15 minutes." Although at odds with the traditional Montreal motto of "If you don't like the weather then go to Florida," I would make the case that this winter the former is a more apt description than the latter.

A second, and possibly more disturbing, way in which Quebec is beginning to remind me of the province from whence I came is the sudden emergence of Conservative blue on the electoral map. I realize that Quebecers are of an innately hospitable and welcoming sort, but you really

shouldn't have gone out of your way to make me feel at home. I honestly would have settled for a relaxation of the no-chaps rule that nightclubs in Montreal seem to enforce so strictly. But alas, it seems everywhere I go I am followed by conservative governments and wacky weather - I will not even go into the disaster my presence once wrought on the future of a small pacific nation (fortunately the whole thing was blamed on that old chestnut El Nino).

As a result of these upsetting events, and the stress that comes with attributing to oneself talismanic powers of political upheaval, I am experiencing a bit of writer's block. The result: this week's installment comes to you courtesy of Nick's travel archives, a magical place where small observations on the foibles of life on the road are magnified into grandiose generalizations about the universe and the nature of being. So without further ado, we join our heroes (a former girlfriend and I) in the midst of a six-month trip through the Andes of South America ... (please forgive any spelling or grammatical errors - I was on some serious malaria medication at the time)

"... So if you have a moment (and you don't spend all your internet time devouring BBC's

page like some unfortunate news-junkies) I'll recount to you our adventures in the Amazon Basin of Bolivia. Our first stop was the city of Trinidad which, despite featuring open sewer technology, was surprisingly pleasant. The mozzies weren't too bad and the heat - though ensuring that you sweat constantly and rarely had a moment when your shirt wasn't clinging to you in the most unpleasant of ways - made it extremely desirable to consume large quantities of beer. Our purpose in coming was to try and catch a cargo boat up the river to the Brazilian border, a trip of about 5 days. With this in mind I jumped on a moto-taxi and buzzed out to the port to inquire at the Port Captain's office about when we could expect a boat to leave. Now remember folks we're still in Bolivia!!! I politely inquired to one of the young men in fatigues in the office, who informed me that a boat would probably be leaving in two days. My hopes leapt! - Briefly. Soon a second, and then a third man, joined our discussion, and between the three they managed to produce answers to my query ranging from 'the day after tomorrow, for sure', to 'two weeks from now, no sooner', and finally 'call this phone number in four hours and maybe they will know' (I recount you the full truth here - no word of fiction!).

With a steadfast faith in the reasonableness of the world that I somehow, despite all experience to the contrary, cling to, I phoned the number that afternoon to find - surprise - no answer. So off we went to the port again, and there were informed by two very serious and well-uniformed men who I had not

spoken with earlier that there would be no boat leaving for at least ten days. Stymied in this endeavor, Lindsey and I headed back into town and arranged a more conventional trip up the river with a local guide ...

After a few weeks in the Amazon basin featuring colorful parrots, crazy monkeys, piranha fishing, pink river dolphins and an unsuccessful search for an anaconda, we headed back to the mountains. This brings us to a series of happenings that I've begun to call 'Nick Dodd's A Series of Unfortunate Events'. You are all familiar with Murphy's Law I'm sure, and none of you more so than myself. Well, as some of you have remarked in your emails to me, we seem to have avoided many of the disasters you were expecting to befall us. This is where the Law of Averages comes into play, as, at this point in our trip, unfortunate events began to pass with alarming rapidity.

Event #1: On a hot sweaty bus from Rurre back to La Paz, as I suffered from what can only be described in polite language as a raging hangover brought on by successive samplings of indigenous moonshine, I fell asleep with my head out the window. Of course, Bolivian highways not being the smoothest of surfaces (they more resemble dusty and deeply rutted paths than anything else), it was not long before a large bump jerked me awake. Unfortunately, in the process of being jerked awake my glasses managed to find their way off my sweat-slicked face and out the window. This is hilarious I realize, but also potentially disastrous for my personal well-being. After a short



EXPERIENCE AN INCREDIBLE GROWTH SPURT

Michèle Denis
Director of Student Programs
(514) 397-3073
mdenis@stikeman.com

www.stikeman.com

STIKEMAN ELLIOTT

STIKEMAN ELLIOTT LLP

SPEAK YOUR MIND ON LEGAL EDUCATION AT MCGILL

Now that I am in my final term I am writing a candid and (I hope) constructive and forward-looking term essay on legal education at McGill. I hope eventually to publish the paper in a legal journal or an education journal, so the effort will not disappear into the void. I am especially interested in hearing from anyone who has strong views about what the faculty does well and what it should do better. Major themes I hope to address include:

- A) Legal pluralism, transsystemia and globalization
- B) Liberal education and professional training
- C) Evaluation methods, limitations and innovations
- D) Mental health, emotional intelligence, personal development
- E) The purposes of legal education

I am hoping especially to make contact with students who began in the faculty and then dropped out because it was not what they hoped it would be - I would like to capture and communicate some of their reasons for disappointment. I'd also be interested in hearing from any alumni who have an interest in how McGill's legal education should evolve. Please kindly forward this e-mail if you know someone in either category. My e-mail is john.haffner@mail.mcgill.ca and I am happy either to incorporate any comments anonymously or to give credit to the source. Thanks!

I WANT TO BE A PLAYER

by Sam Carsley (Law II)

I want to be a player. I want to have my finger on the trigger and my eye on the prize. I want to move and shake and hang out with people who also like to move and shake. But I won't just "hang out" with these people, because people like that don't "hang out." They strategize. They integrate, both vertically and horizontally. They have sessions that are both intense and productive. They have staring contests with parking meters and always win.

I want a blackberry. A huge one. One that can guide satellites and pre-order my power quiche for my power lunch at my favourite power restaurant where I will meet other power people that smell great. And when my immense blackberry

sees smaller, weaker blackberries at meetings, it will leap from its holster and devour them whole. And when their owners try to complain, I'll pretend that they don't exist and leave the room. I'll have my secretary send them an e-mail of apology, but they won't be able to read it, because my blackberry has eaten theirs.

I want to get out there. Sometimes I'll make contacts, sometimes I'll network, and other times I'll just schmooze. I want to have business cards that smell like oak and musk. I want to practice my cocktail greetings in front my mirror at home in my underwear. I want to fire off the guns to the boss from across the room and for him to shoot right back, every time.

I want a luxury car. And I want that luxury car to be luxurious in every respect. It will have an on-board computer that will balance my tires and my cheque book. It will also tell me if my fly is open. I want to sink into the driver's seat and for the fine imported leather to make a deep farting sound. Also, whether I'm in the car or not, I want my farts to smell terrific.

I do not want to interact with reality on any level. If I am absolutely forced to engage with reality, I want my exposure to it to be filtered through the thick glass of a very expensive restaurant. I want to have a vague idea of what people are talking about when they talk about "regular people," but not to the point that I'm perfectly sure based on first-hand experience.

I want a company credit card. I not only want it to be a platinum card, but I want it to be

made out of pure platinum. I want to get very upset when someone says that they don't take credit cards, even if it's my grandmother and I've owed her money for weeks, especially if it's my grandmother and I've owed her money for weeks. I also want it to make a sound like a sword being drawn every time I take it out of my wallet.

Most of all, though, I want a beautiful girlfriend whom I do not love but looks great in a black dress. She'll have a voice full of money. She'll be great at tennis and small talk and drinking expensive martinis. I'll suspect she has a small drinking problem, but she'll hide it well so it won't matter. I'll also suspect she's cheating on me with my squash partner, but that will be okay because I'll have a crush on her sister. Maybe I'll make a move at their mother's birthday party.

exchange of pleasantries with the bus driver however, I managed to get the bus stopped and, miraculously, find my glasses.

Event #2: Upon arriving in La Paz, shaken and exhausted, we discovered we would have to leave right away again as there were upcoming blockades of the city by that rascally peasantry. I wandered through the streets like a zombie (having just arrived in the city off the aforementioned 18 hour bus journey) to book the next bus, which cleaned me out. On the way back to the hostel, dodging an odd mix of revelers, protestors and tear gas, I stopped at a cash machine to withdraw money. The money was not a problem, leaving my card in the machine was. Thus I continue on my way sans bankcard, relying on the kindness of strangers to get me through.

Event #3: While traveling on the bus that was booked just before the loss of my plastic we were awoken at 4am and ordered off the bus. I thought of asking why but it became clear very soon after as we stood on the side of a mountain watching some unidentified liquid leak from the bottom of our vehicle. It caused a six-hour delay and turned what was supposed to be a direct 25-hour bus into a 32-hour marathon..."

Just a sampling, dear reader, of the fun times we could be having if it were not for academic demands. Sorry it was so long, I'll be more concise next time. Take care, don't study too hard, and start training those Olympic hockey-watching muscles!

RESPONSE TO "CUBA LIBRE"

by Michael Lubetsky (Law/MBA I)

"Cuba remains a Latin American anomaly: an undemocratic government that represses nearly all forms of political dissent. President Fidel Castro, now in his forty-seventh year in power, shows no willingness to consider even minor reforms. Instead, his government continues to enforce political conformity using criminal prosecutions, long and short-term detentions, mob harassment, police warnings, surveillance, house arrests, travel restrictions, and politically-motivated dismissals from employment. The end result is that Cubans are systematically denied basic rights to free expression, association, assembly, privacy, movement, and due process of law." -- Human Rights Watch

Oliver Plessis has impressed me on numerous occasions with his insights into a wide variety of subjects. However, his article on Cuba last has left me scratching my head. I also visited Cuba over the winter holiday - staying at a resort not that far from Olivier's - and came to some very different conclusions. I do not pretend to be an expert on the country, but I feel it important to balance some of Oliver's more questionable observations:

"Everyone looks healthy, well-fed, adequately clothed, full of energy, and liable to bust out into an impromptu salsa routine at any moment." Oliver confined his visit to Havana and Varadero, two of

the most prosperous cities in the country. I would suggest that had he undertaken a broader tour, including the impoverished South, his assessment might have been a bit more nuanced.

"What you find in Cuba is a basic dignified standard of living for everyone; political stability; and a high level of education and health. This is lacking in almost every comparable nation in the region." Cuba maintains its "political stability" through a brutal dictatorship that throws its opponents in jail, where their standard of living is far from "dignified."

I confirmed with Olivier that he has actually not visited any Cuba's immediate neighbours. I, however, have travelled through the Dominican Republic, including the less-developed South-western regions, and generally observed homes in good repair and stores full of affordable goods. Of course, there is poverty in the D.R. as well - particularly among the half-million undocumented migrants from Haiti. For some strange reason, in spite of its "dignified standard of living for everyone," Cuba does not have to face the challenge of illegal mass immigration.

"More people ask me for spare change in front of Videotron than in Cuba."

Perhaps that is because panhandling is a crime in Cuba, and in a brutal police state, would-be beggars could

face penalties a lot more severe than a jaywalking ticket.

"If all I wanted in life was to play baseball in the streets, dance with beautiful women, and retire to my porch to smoke cigar after cigar, I would pick Cuba."

And who, Olivier, would manufacture the baseballs, clean the streets, play the music, and roll the cigars? Communism is the ideal system for those who seek to live off of the labour of others - provided, of course, that you have the right connections to procure your share of the plunder.

"People seem...happy. There were more smiles per capita in that country than anywhere I've been."

I can only surmise that Olivier has been spending way too much time in the Faculty of Law.

As we are witnessing in the Dominican Republic and elsewhere, it is possible for governments in developing countries to recognise civil liberties, subject themselves to free and fair elections, and fight poverty and provide universal social services. The time has come for us all - including those of the political left who claim to care so much about social justice - to stop apologising for Cuba and demand that it respect the basic human rights of its citizenry.

PROFESSORS ARE PEOPLE TOO

by Amanda Glover (Law I)

An actress whose name I can't recall once said that the great thing about acting is that you get to say and do things which you can't get away with in real life. In this regard, I suspect (in fact I sincerely hope) that lawbuzz is to the law student as acting is to the aforementioned actress. In other words, I would hope that the maladaptive, antagonistic, and, let's face it, just plain rude, comments on lawbuzz are not representative of actual opinions but rather the manifestations of the darker side of humanity thriving on a combination of anonymity and stress.

My first encounters with lawbuzz revealed a parallel universe where every sense of decorum had been thrown out the window, and I have since avoided the site so as to preserve my relatively good impressions of my classmates. And I was doing a really good job avoiding it too....that is until yesterday....until some first year gossip peaked my curiosity.

It all started with a certain professor who told a personal anecdote in order

to inspire some first year law students. Apparently this anecdote's punch line offended certain members of the class. I do not know if any of these students approached the professor in question in order to voice their concerns, but I do know that "lawbuzz" bore witness to a series of threads which amounted to nothing less than blasphemous personal attacks of said professor.

Now, I personally do not believe that the statement in question was in any way offensive. In fact, I was very glad that this professor took the time to share a personal anecdote with us, and I found it so à propos that I shared it with my mother. (Who, by the way, also found nothing offensive about it.)

However, my opinion (or my mother's for that matter) as to the political correctness of the statement in question is irrelevant. We can debate the statement's level of appropriateness until the proverbial cows come home, but I do not intend to provoke that particular debate at this moment. (Although I am aware that this article will inevitably

spark such a debate. Who knows? Perhaps I will be the next victim of a lawbuzz thread...) If people were genuinely offended by the remark, they should certainly voice their concerns. However, I suspect most of us would agree that it would be far more humane to communicate directly with the professor in question rather than to launch a vociferous personal attack on lawbuzz.

I imagine (and indeed hope) that the threads in question have been erased by now. And I certainly won't reproduce any of what I had the horror of reading. Suffice it to say that these posts hurled a series of insults at the professor in question. Furthermore, they contained a series of racial slurs and other base remarks (complete with superfluous expletives), all of which were far more offensive than an anecdote of questionable political correctness told with good intentions.

Ordinarily I would simply assume that such senseless personal attacks deserve no response whatsoever. But what I find so disturbing is that this professor is not the first victim of such a torrent of online verbal abuse on lawbuzz. Why is it that some of us feel the need to bludgeon our professors with slews of derogatory posts? Is it mere rebellion against

authority? Is it schadenfreude - are we simply conveying our extreme joy every time someone at the top does something that might be construed as wrong?

I stand by the theory to which I alluded at the beginning of this piece. I prefer, perhaps for the sake of my own sanity (seeing as we all have to spend the next three years of our lives together) to believe that our classmates are not really that cruel and immature, but that they are simply getting carried away by the lure of the anonymity which allows them to say things that they would never say in real life, things that, occasionally, perhaps the darker sides of all of us wish we could say.

That said, our professors are people too. I know it is hard to believe, and the first time I found out I was rather shocked. (I had always thought of them as robots who lived in the library, but I found out otherwise when I actually witnessed a professor in another faculty well up with tears upon reading a horrible evaluation from a student). The professors have feelings too. They have even have lives outside of school. They are human beings like you and me, and as such they deserve respect. If you have a problem with something a professor does or says, is it really too much to ask that you voice

this problem diplomatically to the professor in question, or save it for course evaluations?

The attacks on professors, not to mention attacks on other students, which appear frequently on lawbuzz are, in my opinion, disconcerting. I certainly do not expect people to be warm and fuzzy at law school. (I realize that most of us are aspiring lawyers, and I am not so naïve as to think that the legal profession places a particular value on either warmth or fuzz). However, I don't think that it is asking too much that people conduct themselves according to basic rules of human decency, even when acting as anonymous posters.

STUDENT ANCILLARY FEES, ACCOUNTABILITY AND INSTITUTIONAL DESIGN

by David Sandomierski (Faculty Council), Hans Black (VP-Clubs, LSA), Martin Doe (VP-External, LSA) and Melissa Pang (VP-Finance, LSA)

The past few years have seen a rise in direct appeals from student groups to the student body at large for stable, regular funding in the form of student contributory fees. On the one hand, student contributions provide stable, regular funding (hence financial independence) for clubs. Passed by referendum, they represent (at least formally) a threshold of democratic support for student initiatives. On the other hand, the cumulative increase in student fees imposes a financial burden on all students, sometimes for a long period of time. Students therefore have legitimate interest in the accountability of the funds. Further, the direct appeal to students stands as an alternative to established, more collective means of distributing resources to student initiatives (such as the LSA/SSMU clubs budget, or the Dean's Discretionary Fund). As such, these appeals represent a departure from allocative decision making by representatives. The causes and implications of this move deserve inquiry.

The LSA would like to solicit student input on this issue. Our hope is to suggest to the LSA executive new guidelines to deal with this trend. We believe the LSA is an appropriate organization to deal with this question for three rea-

sons. First, as student representatives, it is our role to solicit diverse opinions and to reflect student views. More pragmatically, by an administrative fiat, most specific contributory fees "pass through" the LSA. Finally, as an allocative body, the LSA is concerned that the trend toward individual solicitations may signal a decline in confidence in your public body. In our recommendations, we hope to improve 1) the modes of accountability of those who receive student funding and 2) the relationship between individual clubs and the LSA generally. We feel these objectives can be met jointly and harmoniously.

We invite contributions relating to any part of this issue. You may find the following questions to be a helpful guide:

1. What are the benefits to direct appeals to the student body? How can the system maximize these benefits?
2. What accountability requirements, if any, would you like to see in place for clubs (e.g. presentation of yearly budgets, publication of annual reports, less formal measures, etc.)?
3. What oversight role (if any) should the LSA play?
4. What sanctions should exist to ensure the proper use of funds? Who should adjudicate? How?
5. Should the

LSA require any specific criteria as condition for agreeing to administer the contributory fees on behalf of clubs? If so, what should they be? Formal/Procedural? Substantive? 6. Is the current referendum system fair and effective? Should it be changed? If so, how?

7. Why would a club prefer to appeal to students directly as opposed to appealing to the LSA for funding? Can the LSA do anything to improve its administration of clubs money?

There will be a Town Hall meeting to discuss this issue at 1:30 in room 202 on Wednesday, Feb. 1st. Members of the Committee - Martin Doe, Hans Black, Melissa Pang (LSA Exec.) and David Sandomierski (Faculty Council) - will present a preliminary report to the LSA on Friday, Feb. 3rd at 11:30, reporting on all submissions received by Thursday, Feb. 2nd at noon. As always, all students are invited to attend the LSA meeting.

Please submit written comments to david.sandomierski@mail.mcgill.ca, who will distribute them to the committee.

Thanks in advance for your participation.

Next Week...

**The
Quid's
Summer
Jobs
Issue**



Félicitations

**Vanessa Udy et
François Beaudry**

pour la
traduction
du site Web de
l'AÉD !

Merci pour
votre travail

DEAR QUID

by Stephen Glough (Law II)

Dear Quid:

I was very disheartened to read about the first year students who received low marks in Professor Howes' Foundations class. Clearly some of these students:
a) aren't quite getting it or
b) don't care.

What disturbed me more however was the need of certain students to remind all of us how closely our careers and self-esteem are connected to our marks. I can just picture the poor, down on their luck McGill law grads pounding the pavement (sole-destroying?) in search of a job only to be turned away mid-interview - "A 'C' in Foundations? Sorry, move along or we'll call security." Furthermore, I find the use of the term agonizing a little over the top. While receiving a bad mark can feel pretty rotten, let's try to keep it in perspective.

To the students of Prof. Howes' Foundations class, I encourage you to hang in there (or start trying). You may be in for a rewarding experience between now and April as you face this challenge. You should also know that you've got a lot of support within the faculty. Studying at McGill encapsulates far more than any mark.

In the meantime, I will eagerly await the Quid's next series of Mental Well-Being issues.

Stephen Gough

LA FOIRE AUX PACOTILLES

par Marguerite Tinawi (Law I)

Pacotille : une certaine quantité d'objets quelconques. Sans valeur.

Dans un langage un peu moins châtié, des bébelles, des cossins...

Une foire aux bébelles. Plein de monde. Ça grouille partout. Ça vous rappelle quelque chose? Rings a bell?

Si la cloche ne fait pas ding ding dans votre cerveau, pas de panique, il y a plusieurs explications possibles. L'explication la plus probable, c'est que votre cerveau ne résonne plus. Il est simplement trop rempli. En général, c'est un phénomène rare, mais à la Faculté, c'est plutôt courant. Le Monde du Droit monopolise vos pensées; il imprègne vos rêves, vos espoirs, votre façon de marcher. J'exagère, mais de toute façon, vous le saviez, vous n'êtes pas si fous. L'autre explication possible, c'est que vous n'avez pas mis les pieds dans l'Atrium mardi dernier entre 12h30 et 15h30. Dans ce cas-là, c'est fort dommage, car vous avez manqué l'occasion en or d'assister à une foire aux pacotilles!

Laissez-moi donc la joie de vous conter cette foire aux pacotilles de McGill, qui, vraiment, est unique en son genre. Ce qui impressionne au premier abord, c'est l'incroyable esprit de corps "vestimentaire" au sein de la profession. En effet, ces messieurs vendeurs de pacotilles sont tous invariablement affublés d'un "costume-cravate", tandis que leurs comparses féminines arborent

un tailleur gris. Ou noir. Ou bleu marine. Ou orange. Orange??? Grand Dieu, jamais de la vie! Voyons, ça serait bien trop olé olé, original, spontané, joyeux... Non, non, non, le vendeur de pacotille se doit d'être sobre, réfléchi, sérieux, professionnel. Somme toute, insipide.

Une fois l'uniforme endossé, le vendeur de pacotille va essayer de vous convaincre que sa job est LA meilleure au monde. Moi je me demande comment une cinquantaine de personnes dans la même salle peuvent tous clamer avoir LA meilleure job au monde. Peut-être qu'ils se la partagent tous à temps partiel... En tout cas, les vendeurs de pacotille, eux, ils savent qu'ils l'ont et ils en persuadent la plèbe à grand renfort de tracts, pamphlets, discours répétitifs, sourires Minute-Maid, poignées de main, cartes d'affaire et naturellement... distribution de pacotilles.

Ah, ces chères pacotilles! [Soupir] J'étais déçue mardi dernier, parce que je n'ai pas eu assez de temps pour bien évaluer la situation, mais du peu que j'ai pu voir, on avait là une foire de qualité. Les incontournables étaient au rendez-vous : stylos, crayons (en bois pour le Ministère de la Justice, on voit qu'ils n'ont pas les mêmes moyens...), fluos avec Post-it qui surgissent lorsqu'on dévisse le haut, gommes, pochettes plastifiées transparentes (trop-trop-belles... j'ai craqué), bouteilles d'eau... Dans le plus haut de gamme, j'ai vu des porte-clés

rouge flamboyant (comme quoi, ils ne sont pas si allergiques aux couleurs vives... à doses homéopathiques), des Chartes plastifiées pour accrocher sur la porte des toilettes, des gadgets qui ressemblaient à un chronomètre ou à une Pagette (avec un P majuscule parce que selon l'Office de la langue française, c'est une marque de commerce), des mini-backgammon magnétiques (là, franchement, on s'approche dangereusement de la pacotille de luxe!)

Mais le top du top de la pacotille, Mesdames et Messieurs, c'est ni le mini-backgammon ni le porte-clé. Non, non, non. Écoutez bien! La Palme de la Pacotille 2006 revient à... une boîte! Une boîte en carton. Remplie de céréales. Mais pas n'importe lesquelles. Des céréales "MuèsLEX". Tellement subtil. En manger vous donne automatiquement LA meilleure job au monde. C'est prouvé.

Dans le fond, le nec plus ultra de la pacotille, c'est quelque chose qui ferait le bonheur de bien des personnes dans le monde. Surtout lorsqu'elles commencent leur journée le ventre vide.

C'est quand déjà que t'arrêtes de penser, Marguerite?

VOUS ÊTES SUR LE POINT DE DÉBUTER VOTRE CARRIÈRE.
PARLONS DE VOTRE RETRAITE.

YOU'RE ABOUT TO START
YOUR LAW CAREER. LET'S TALK RETIREMENT.



Chez Osler, Hoskin & Harcourt S.E.N.C.R.L./s.r.l., nous privilégions le mentorat et un type de formation innovateur car, selon nous, le succès d'une carrière dépend de la façon dont elle débute.

Consider Osler, Hoskin & Harcourt LLP. We place a premium on mentoring and innovative training, because how a career develops depends very much on how it begins.

OSLER

Université d'Ottawa

Nouvelle

Maîtrise en traduction juridique (MTJ) à l'École de traduction et d'interprétation

Unique en son genre en Amérique du Nord, la MTJ s'adresse à tout juriste désireux de se spécialiser en traduction, révision ou rédaction juridiques de l'anglais vers le français. Cette maîtrise professionnelle, qui inclut un stage, est rendue possible grâce à la contribution financière du ministère de la Justice du gouvernement du Canada.

Pour tout renseignement, prière de communiquer avec le secrétariat de l'École : (613) 562-5719

ou consulter le site de l'ETI : www.traduction.uOttawa.ca



uOttawa

L'Université canadienne
Canada's university